

REMARKS

Reconsideration and allowance of the application are respectfully requested in light of the above amendments and the following remarks.

The Applicants acknowledge with appreciation the indication in the Office Action that claims 4-6 and 9 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 4 and 9 have been rewritten in independent form as suggested in the Office Action. Therefore, allowance of claims 4 and 9 and all claims dependent therefrom is considered to be warranted.

Independent claims 1-2, 7, and 10-11 have been amended to incorporate various recited features from claim 12, and claim 12 has been cancelled without prejudice or disclaimer. Specifically, cancelled claim 12 recited the feature "...wherein either a fading pitch, moving speed of a mobile station, delay profile, or fluctuation period of receiving signal power is used as a parameter indicating the estimated speed of the change in the propagation path condition," and independent claims 1-2, 7, and 10-11 have been amended to incorporate each of these parameters except the parameter of a "moving speed of a mobile station." Also, claims 1-11 have been amended to clarify various recited features, to ensure proper antecedent support and to correct minor grammatical errors. Support for the amendments is provided, for example, in cancelled claim 12 and paragraph [0066] of the published U.S. application. As such, the amendments to the claims raise no new issues. (It should be noted that references herein to the specification and drawings are for illustrative purposes only and are not intended to limit the scope of the invention to the referenced embodiments.)

Claims 1 and 12 were rejected under 35 U.S.C. §102(e) as being anticipated by Ishii et al. (US 7,363,057) (hereinafter, "Ishii"). Claim 3 was rejected under 35 U.S.C. §103(a) as being

unpatentable over Ishii in view of Takano et al. (US 7,308,015) (hereinafter, "Takano '015"). Claims 2, 7, 8, 10 and 11 were rejected under 35 U.S.C. §103(a), as being unpatentable over Ishii in view of Takano et al. (US 6,985,752) (hereinafter, "Takano '752"). To the extent that these rejections may be deemed applicable to the amended claims presented herein, the Applicants respectfully traverse as follows.

Claim 1 now defines:

"1. A communication apparatus comprising:

a propagation path condition estimation section that estimates a speed of a change in a propagation path condition;

a communication quality estimation section that changes a method of estimating a communication quality of a received signal, based on the estimated speed of the change in the propagation path condition, and estimates the communication quality;

a transmission section that transmits the estimated communication quality to a communicating party;

a reception section that receives data modulated in a modulation scheme determined by the communicating party based on the estimated communication quality; and

a demodulation section that demodulates the received data, wherein:

one of a fading pitch, a delay profile, and a fluctuation period of received signal power is used as a parameter indicating the estimated speed of the change in the propagation path condition." (emphasis added)

As explained in the specification, the claimed subject matter provides an advantage of determining a modulation scheme to be switched to according to the reception quality, with high accuracy, by increasing the reliability of the measurement result of the reception quality, so that it is possible to improve transmission efficiency (see paragraph [0062] of the published U.S. application).

In contrast, Ishii discloses that, in the selection of a channel to be used for estimating communication path quality, a mobile station checks an elapsed time from when the mobile station has last received user data, uses a common pilot channel for quality estimation when a predetermined time has passed, uses a dedicated control channel when user data is being received, and uses a last estimated value within the predetermined time. Further, Ishii discloses that the predetermined time is determined by, for example, the moving speed of the mobile station. Col. 9, lines 14-30.

That is, Ishii discloses a technique to select a channel to be used for estimating communication quality, based on a comparison between an elapsed time from when the mobile station last received user data and a predetermined time determined according to a moving speed of the mobile station. In contrast, the Applicants' communication apparatus recited by claim 1 uses "one of a fading pitch, a delay profile, and a fluctuation period of received signal power" as "a parameter indicating the estimated speed of the change in the propagation path condition." Ishii does not disclose using any of these recited parameters, and in the rejection of claim 12, the Office Action does not allege that Ishii discloses using any of these recited parameters (see OA, pg. 3, third line from the bottom, to page 4, line 2, and pg. 7, lines 12-16). It is noted that the Office Action does not cite Takano '015 or Takano '752 for supplementing the teachings of Ishii in this regard.

Accordingly, the Applicants respectfully submit that Ishii does not anticipate the subject matter now defined by claim 1. Independent claims 2, 7, 10 and 11 now similarly recite the above-mentioned subject matter distinguishing apparatus claim 1 from Ishii, but with respect to other apparatuses and methods. Therefore, allowance of claims 1, 2, 7, 10 and 11 and all claims dependent therefrom is considered to be warranted.

In view of the above, it is submitted that this application is in condition for allowance and a notice to that effect is respectfully solicited.

If any issues remain which may best be resolved through a direct communication, the Examiner is requested to e-mail the undersigned at the address listed below.

Respectfully submitted,

/James Edward Ledbetter/

Date: January 31, 2011
JEL/DEA/att

James E. Ledbetter
Registration No. 28,732

Attorney Docket No. L9289.06203
DICKINSON WRIGHT, PLLC
International Square
1875 Eye Street, NW
Suite 1200
Washington, D.C. 20006
Telephone: (202)-457-0160
Facsimile: (202)-659-1559

DC 9289-6203 168147v1